

By: Averitt, et al.

S.B. No. 12

Substitute the following for S.B. No. 12:

By: Hancock

C.S.S.B. No. 12

A BILL TO BE ENTITLED

AN ACT

relating to programs for the enhancement of air quality, including energy efficiency standards in state purchasing and energy consumption; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. LOW-INCOME VEHICLE REPAIR ASSISTANCE, RETROFIT, AND
ACCELERATED VEHICLE RETIREMENT PROGRAM

SECTION 1.01. Section 382.003, Health and Safety Code, is amended by adding Subdivisions (7-a), (9-a), and (10-a) to read as follows:

(7-a) "Hybrid motor vehicle" means a motor vehicle that draws propulsion energy from both gasoline or conventional diesel fuel and a rechargeable energy storage system.

(9-a) "Motor vehicle" means a fully self-propelled vehicle having four wheels that has as its primary purpose the transport of a person or persons, or property, on a public highway.

(10-a) "Qualifying motor vehicle" means a motor vehicle that has a current emissions inspection sticker and meets the requirements of Section 382.210(b).

SECTION 1.02. Subsection (b), Section 382.0622, Health and Safety Code, is amended to read as follows:

(b) Except as provided by Subsection ~~[Subsections]~~ (b-1) ~~[and (c)]~~, Clean Air Act fees shall be deposited in the state treasury to the credit of the clean air account and shall be used to

1 safeguard the air resources of the state.

2 SECTION 1.03. Subsection (a), Section 382.203, Health and
3 Safety Code, is amended to read as follows:

4 (a) The inspection and maintenance program applies to any
5 ~~[gasoline-powered]~~ vehicle that is:

6 (1) required to be registered in and is primarily
7 operated in an affected county; and

8 (2) at least two years old and newer ~~[less]~~ than model
9 year 1980 ~~[25 years old]~~; or

10 (3) subject to test-on-resale requirements under
11 Section 548.3011, Transportation Code.

12 SECTION 1.04. Section 382.209, Health and Safety Code, is
13 amended by amending Subsections (b), (e), and (g) and adding
14 Subsections (i) and (j) to read as follows:

15 (b) The commission shall provide funding for local
16 low-income vehicle repair assistance, retrofit, and accelerated
17 vehicle retirement programs with available funds collected under
18 Section 382.202, 382.302, or other designated and available funds.
19 The programs shall be administered in accordance with Chapter 783,
20 Government Code. Program ~~[Programmatic]~~ costs may include call
21 center management, application oversight, invoice analysis,
22 education, outreach, and advertising. In a county with a vehicle
23 emissions inspection and maintenance program under Section
24 382.202, not more than 10 percent of the money provided to a local
25 low-income vehicle repair assistance, retrofit, and accelerated
26 vehicle retirement program under this section may be used for the
27 administration of the programs. In a county with a vehicle

1 emissions inspection and maintenance program under Section
2 382.302, the commission shall provide 10 percent of all the fees
3 collected in that county for a low-income vehicle repair
4 assistance, retrofit, and accelerated vehicle retirement program
5 under this section for the administration of the program.

6 (e) A vehicle is not eligible to participate in a low-income
7 vehicle repair assistance, retrofit, and accelerated vehicle
8 retirement program established under this section unless:

9 (1) the vehicle is capable of being operated;

10 (2) the registration of the vehicle:

11 (A) is current; and

12 (B) reflects that the vehicle has been registered
13 in the county implementing the program for the 12 months preceding
14 the application for participation in the program;

15 (3) the commissioners court of the county
16 administering the program determines that the vehicle meets the
17 eligibility criteria adopted by the commission, the Texas
18 Department of Transportation, and the Public Safety Commission;
19 ~~[and]~~

20 (4) if the vehicle is to be repaired, the repair is
21 done by a repair facility recognized by the Department of Public
22 Safety, which may be an independent or private entity licensed by
23 the state; and

24 (5) if the vehicle is to be retired under this
25 subsection and Section 382.213, the replacement vehicle is a
26 qualifying motor vehicle.

27 (g) A participating county may contract with any

1 appropriate entity, including the regional council of governments
2 or the metropolitan planning organization in the appropriate
3 region, or with another county for services necessary to implement
4 the participating county's low-income vehicle repair assistance,
5 retrofit, and accelerated vehicle retirement program. The
6 participating counties in a nonattainment region or counties
7 participating in an early action compact under Subchapter H may
8 agree to have the money collected in any one county be used in any
9 other participating county in the same region. ~~[The participating~~
10 ~~counties may also agree to contract with any appropriate entity,~~
11 ~~including the regional metropolitan planning organization or~~
12 ~~council of governments, to implement a program under Section~~
13 ~~382.217.]~~

14 (i) Notwithstanding the vehicle replacement requirements
15 provided by Subsection (d)(2), the commission by rule may provide
16 monetary or other compensatory assistance under the low-income
17 vehicle repair assistance, retrofit, and accelerated vehicle
18 retirement program, subject to the availability of funds, for the
19 replacement of a vehicle that meets the following criteria:

- 20 (1) the vehicle is at least 10 years old;
- 21 (2) the vehicle owner meets applicable financial
22 eligibility criteria;
- 23 (3) the vehicle meets the requirements provided by
24 Subsections (e)(1) and (2); and
- 25 (4) the vehicle has passed a Department of Public
26 Safety motor vehicle safety inspection or safety and emissions
27 inspection within the 15-month period before the application is

1 submitted.

2 (j) The commission may provide monetary or other
3 compensatory assistance under the low-income vehicle repair
4 assistance, retrofit, and accelerated vehicle retirement program
5 for a replacement vehicle or replacement assistance for a pre-1996
6 model year replacement vehicle that passes the required United
7 States Environmental Protection Agency Start-Up Acceleration
8 Simulation Mode Standards emissions test but that would have failed
9 the United States Environmental Protection Agency Final
10 Acceleration Simulation Mode Standards emissions test or failed to
11 meet some other criterion determined by the commission; provided,
12 however, that a replacement vehicle under this subsection must be a
13 qualifying motor vehicle.

14 SECTION 1.05. Section 382.210, Health and Safety Code, is
15 amended to read as follows:

16 Sec. 382.210. IMPLEMENTATION GUIDELINES AND REQUIREMENTS.

17 (a) The commission by rule shall adopt guidelines to assist a
18 participating county in implementing a low-income vehicle repair
19 assistance, retrofit, and accelerated vehicle retirement program
20 authorized under Section 382.209. The guidelines at a minimum
21 shall recommend:

22 (1) a minimum and maximum amount for repair
23 assistance;

24 (2) a minimum and maximum amount toward the purchase
25 price of a replacement vehicle qualified for the accelerated
26 retirement program, based on vehicle type and model year, with the
27 maximum amount not to exceed:

1 (A) \$3,000 for a replacement vehicle of the
2 latest model year, except as provided by Paragraph E;

3 (B) \$2,500 for a replacement vehicle of the
4 previous two model years, except as provided by Paragraph F;

5 (C) \$2,000 for a replacement vehicle the model
6 year of which is more than two years but is five years or less before
7 the year in which the vehicle is purchased as a replacement vehicle,
8 except as provided by Paragraph F;

9 (D) \$1,500 for a replacement vehicle the model
10 year of which is more than five years but is 10 years or less before
11 the year in which the vehicle is purchased as a replacement vehicle;

12 (E) \$5,000 for a replacement hybrid motor vehicle
13 of the latest model year; and

14 (F) \$3,500 for a replacement hybrid motor vehicle
15 of the preceding five model years;

16 (3) criteria for determining eligibility, taking into
17 account:

18 (A) the vehicle owner's income, provided that an
19 eligible vehicle owner's income may not exceed 300 percent of the
20 federal poverty level;

21 (B) the fair market value of the vehicle; and

22 (C) any other relevant considerations;

23 (4) safeguards for preventing fraud in the repair,
24 purchase, or sale of a vehicle in the program; and

25 (5) procedures for determining the degree and amount
26 of repair assistance a vehicle is allowed, based on:

27 (A) the amount of money the vehicle owner has

1 spent on repairs;

2 (B) the vehicle owner's income; and

3 (C) any other relevant factors.

4 (b) A replacement vehicle described by Subsection (a)(2)
5 must have a gross vehicle weight rating of less than 10,000 pounds.

6 (c) A participating county shall provide an electronic
7 means for distributing vehicle repair or replacement funds once all
8 program criteria have been met with regard to the repair or
9 replacement. The county shall ensure that funds are transferred to
10 a participating dealer under this section not later than five
11 business days after the date the county receives proof of the sale
12 and any required administrative documents from the participating
13 dealer.

14 (d) In rules adopted under this section, the commission
15 shall require a procedure that:

16 (1) produces a document confirming that a person is
17 eligible to purchase a replacement vehicle in the manner provided
18 by this chapter, and the amount of money available to the
19 participating purchaser;

20 (2) provides that a person who seeks to purchase a
21 replacement vehicle in the manner provided by this chapter is
22 required to have the document required by Subdivision (1) before
23 the person enters into negotiation for a replacement vehicle in the
24 manner provided by this chapter; and

25 (3) provides that a participating dealer who relies on
26 a document issued as required by Subdivision (1) has no duty to
27 otherwise confirm the eligibility of a person to purchase a

1 replacement vehicle in the manner provided by this chapter.

2 SECTION 1.06. Section 382.213, Health and Safety Code, is
3 amended by adding Subsections (d) through (i) to read as follows:

4 (d) Notwithstanding Subsection (a)(3), the dismantler of a
5 vehicle shall scrap the emissions control equipment, power train,
6 and engine. The dismantler shall certify that those parts have been
7 scrapped and not resold into the marketplace. A person who causes,
8 suffers, allows, or permits a violation of this subsection or of a
9 rule adopted under this section is subject to a civil penalty under
10 Subchapter D, Chapter 7, Water Code, for each violation. For
11 purposes of this subsection, a separate violation occurs with each
12 fraudulent certification or prohibited resale.

13 (e) Except as provided by Subsection (d), vehicle parts may
14 be resold in any state.

15 (f) Any dismantling of vehicles or salvaging of steel under
16 this section must be performed at a facility located in this state.

17 (g) In dismantling a vehicle under this section, the
18 dismantler shall remove any mercury switches in accordance with
19 state and federal law.

20 (h) For purposes of this section, the commission shall adopt
21 rules defining "emissions control equipment," "power train," and
22 "engine."

23 (i) Notwithstanding any other provision of this section,
24 and except as provided by this subsection, a dealer is in compliance
25 with this section and incurs no civil or criminal liability as a
26 result of the disposal of a replaced vehicle if the dealer produces
27 proof of transfer of the replaced vehicle by the dealer to a

1 dismantler. The defense provided by this subsection is not
2 available to a dealer who knowingly and intentionally conspires
3 with another person to violate this section.

4 SECTION 1.07. Subchapter G, Chapter 382, Health and Safety
5 Code, is amended by adding Section 382.219 to read as follows:

6 Sec. 382.219. PURCHASE OF REPLACEMENT VEHICLE; AUTOMOBILE
7 DEALERSHIPS. (a) An amount described by Section 382.210(a)(2) may
8 be used as a down payment toward the purchase of a replacement
9 vehicle.

10 (b) An automobile dealer that participates in the
11 procedures and programs offered by this chapter must be located in
12 this state. A dealer is not required to participate in the
13 procedures and programs provided by this chapter.

14 SECTION 1.08. Subchapter G, Chapter 382, Health and Safety
15 Code, is amended by adding Section 382.220 to read as follows:

16 Sec. 382.220. USE OF FUNDING FOR LOCAL INITIATIVE PROJECTS.
17 (a) Money that is made available to participating counties under
18 Section 382.202(g) or 382.302 may be appropriated only for programs
19 administered in accordance with Chapter 783, Government Code, to
20 improve air quality. A participating county may agree to contract
21 with any appropriate entity, including a metropolitan planning
22 organization or a council of governments to implement a program
23 under Section 382.202, 382.209, or this section.

24 (b) A program under this section must be implemented in
25 consultation with the commission and may include a program to:

26 (1) expand and enhance the AirCheck Texas Repair and
27 Replacement Assistance Program;

1 (2) develop and implement a program or system that
2 remotely determines vehicle emissions and notifies the vehicle's
3 operator;

4 (3) develop and implement projects to implement the
5 commission's smoking vehicle program;

6 (4) develop and implement projects for coordinating
7 with local law enforcement officials to reduce the use of
8 counterfeit state inspection stickers by providing local law
9 enforcement officials with funds to identify vehicles with
10 counterfeit state inspection stickers and to carry out appropriate
11 actions;

12 (5) develop and implement programs to enhance
13 transportation system improvements; or

14 (6) develop and implement new air control strategies
15 designed to assist local areas in complying with state and federal
16 air quality rules and regulations.

17 (c) Money that is made available for the implementation of a
18 program under Subsection (b) may be expended for call center
19 management, application oversight, invoice analysis, education,
20 outreach, or advertising purposes.

21 (d) Fees collected under Sections 382.202 and 382.302 may be
22 used, in an amount not to exceed \$10 million per fiscal year, for
23 projects described by Subsection (b). The fees may be made
24 available only to counties participating in the low-income vehicle
25 repair assistance, retrofit, and accelerated vehicle retirement
26 programs created under Section 382.209.

27 SECTION 1.09. Subsection (b), Section 152.002, Tax Code, is

amended to read as follows:

(b) "Total consideration" does not include:

- (1) a cash discount;
- (2) a full cash or credit refund to a customer of the sales price of a motor vehicle returned to the seller;
- (3) the amount charged for labor or service rendered in installing, applying, remodeling, or repairing the motor vehicle sold;
- (4) a financing, carrying, or service charge or interest on credit extended on a motor vehicle sold under a conditional sale or other deferred payment contract;
- (5) the value of a motor vehicle taken by a seller as all or a part of the consideration for sale of another motor vehicle, including any cash payment to the buyer under Section 348.404, Finance Code;
- (6) a charge for transportation of the motor vehicle after a sale; ~~[or]~~
- (7) motor vehicle inventory tax; or
- (8) an amount made available to the customer under Subchapter G, Chapter 382, Health and Safety Code.

SECTION 1.10. Section 7.102, Water Code, is amended to read as follows:

Sec. 7.102. MAXIMUM PENALTY. A person who causes, suffers, allows, or permits a violation of a statute, rule, order, or permit relating to Chapter 37 of this code, Chapter 366, 371, or 372, Health and Safety Code, Subchapter G, Chapter 382, Health and Safety Code, or Chapter 1903, Occupations Code, shall be assessed

1 for each violation a civil penalty not less than \$50 nor greater
2 than \$5,000 for each day of each violation as the court or jury
3 considers proper. A person who causes, suffers, allows, or permits
4 a violation of a statute, rule, order, or permit relating to any
5 other matter within the commission's jurisdiction to enforce, other
6 than violations of Chapter 11, 12, 13, 16, or 36 of this code, or
7 Chapter 341, Health and Safety Code, shall be assessed for each
8 violation a civil penalty not less than \$50 nor greater than \$25,000
9 for each day of each violation as the court or jury considers
10 proper. Each day of a continuing violation is a separate violation.

11 SECTION 1.11. The following provisions of the Health and
12 Safety Code are repealed:

- 13 (1) Subsection (e), Section 382.0622;
14 (2) Subsections (q) and (r), Section 382.202; and
15 (3) Section 382.217.

16 SECTION 1.12. The Texas Commission on Environmental Quality
17 shall review its current cutpoint levels for nitrogen oxide
18 emissions and determine whether a lower cutpoint standard would
19 best serve the interest of the public health and welfare. The
20 determination shall be made by rule not later than January 1, 2008.
21 If the commission adopts a lower cutpoint standard, the commission
22 shall make the low-income vehicle repair assistance, retrofit, and
23 accelerated vehicle retirement program under Section 382.209,
24 Health and Safety Code, as amended by this article, available to
25 owners of vehicles that did not meet the prior, more stringent
26 standard.

27 SECTION 1.13. (a) The Texas Commission on Environmental

1 Quality shall seek to work in partnership with automobile
2 manufacturers and dealers in the state to increase public awareness
3 of and participation in the low-income vehicle repair assistance,
4 retrofit, and accelerated vehicle retirement program under Section
5 382.209, Health and Safety Code, as amended by this article.

6 (b) Funding for the partnership described by Subsection (a)
7 of this section shall be used exclusively for the purpose of
8 publicizing the program.

9 SECTION 1.14. (a) The Texas Commission on Environmental
10 Quality shall seek to work in partnership with the steel industry
11 and automobile dismantlers to ensure that vehicles being replaced
12 are scrapped and that proof of scrapping is provided to the
13 commission.

14 (b) Not later than January 1, 2008, the Texas Commission on
15 Environmental Quality shall adopt procedures for certifying that
16 emissions control equipment and vehicle engines have been scrapped
17 and not resold into the marketplace and shall by rule define
18 "emissions control equipment," "power train," and "engine," as
19 required by Section 382.213, Health and Safety Code, as amended by
20 this article.

21 ARTICLE 2. TEXAS EMISSIONS REDUCTION PLAN

22 SECTION 2.01. Section 386.002, Health and Safety Code, is
23 amended to read as follows:

24 Sec. 386.002. EXPIRATION. This chapter expires August 31,
25 2013 [2010].

26 SECTION 2.02. Subsection (a), Section 386.052, Health and
27 Safety Code, is amended to read as follows:

1 (a) In administering the plan established under this
2 chapter and in accordance with the requirements of this chapter,
3 the commission shall:

4 (1) manage plan funds and oversee the plan;

5 (2) produce guidelines, protocols, and criteria for
6 eligible projects;

7 (3) develop methodologies for evaluating project
8 cost-effectiveness;

9 (4) prepare reports regarding the progress and
10 effectiveness of the plan; ~~and~~

11 (5) take all appropriate and necessary actions so that
12 emissions reductions achieved through the plan are credited by the
13 United States Environmental Protection Agency to the appropriate
14 emissions reduction objectives in the state implementation plan;
15 and

16 (6) hire staff and consultants needed to complete the
17 commission's duties under this section and ensure timely review of
18 applications and reimbursement of grant applicants' eligible
19 project costs.

20 SECTION 2.03. Subsection (d), Section 386.053, Health and
21 Safety Code, is amended to read as follows:

22 (d) The commission may propose revisions to the guidelines
23 and criteria adopted under this section as necessary to improve the
24 ability of the plan to achieve its goals. Revisions may include,
25 among other changes, adding additional pollutants, adding
26 stationary engines or engines used in stationary applications,
27 adding vehicles and equipment that use fuels other than diesel, or

1 adjusting eligible program categories, as appropriate, to ensure
2 that incentives established under this chapter achieve the maximum
3 possible emissions reductions. The commission shall make a
4 proposed revision available to the public before the 30th ~~[45th]~~
5 day preceding the date of final adoption of the revision and shall
6 hold at least one public meeting to consider public comments on the
7 proposed revision before final adoption.

8 SECTION 2.04. Subsection (c), Section 386.104, Health and
9 Safety Code, is amended to read as follows:

10 (c) For a proposed project as described by Section
11 386.102(b), other than a project involving a marine vessel or
12 engine, not less than 50 ~~[75]~~ percent of vehicle miles traveled or
13 hours of operation projected for the five years immediately
14 following the award of a grant must be projected to take place in a
15 nonattainment area or affected county of this state. The
16 commission may also allow vehicle travel on highways and roadways,
17 or portions of a highway or roadway, designated by the commission
18 and located outside a nonattainment area or affected county to
19 count towards the percentage of use requirement in this subsection.

20 For a proposed project involving a marine vessel or engine, the
21 vessel or engine must be operated in the intercoastal waterways or
22 bays adjacent to or in an area within nine miles of a nonattainment
23 area or affected county of this state for a sufficient amount of
24 time over the lifetime of the project, as determined by the
25 commission, to meet the cost-effectiveness requirements of Section
26 386.105.

27 SECTION 2.05. Subsection (a), Section 386.106, Health and

Safety Code, is amended to read as follows:

(a) Except as provided by Section 386.107 and except for infrastructure projects and infrastructure purchases that are part of a broader retrofit, repower, replacement, or add-on equipment project, the commission may not award a grant for a proposed project the cost-effectiveness of which, calculated in accordance with Section 386.105 and criteria developed under that section, exceeds \$15,000 [~~\$13,000~~] per ton of oxides of nitrogen emissions reduced in the nonattainment area or affected county for which the project is proposed. This subsection does not restrict commission authority under other law to require emissions reductions with a cost-effectiveness that exceeds \$15,000 [~~\$13,000~~] per ton.

SECTION 2.06. Section 386.109, Health and Safety Code, is amended to read as follows:

Sec. 386.109. ELIGIBLE INFRASTRUCTURE PROJECTS. (a) The commission may consider for funding under Section 386.108:

(1) the purchase and installation at a site of equipment that is designed primarily to dispense qualifying fuel, other than standard gasoline or diesel, or the purchase of on-site mobile fueling equipment;

(2) infrastructure projects, including auxiliary power units, designed to dispense electricity to:

(A) motor vehicles;

(B) [and] on-road and non-road diesels; and

(C) marine vessels; and

(3) a project that involves a technology that allows a vehicle to replace with electric power, while the vehicle is

1 parked, the power normally supplied by the vehicle's internal
2 combustion engine.

3 (b) The commission may provide funding to other state
4 agencies to implement projects under Subsection (a)(3), including
5 funding for the lease, purchase, or installation of idle reduction
6 technologies and facilities at rest areas and other public
7 facilities on major highway transportation routes located in areas
8 eligible for funding or for marine vessels operating on water
9 routes eligible for funding. Funding under this subsection may
10 include reasonable operational costs determined by the commission
11 to be needed for the initial start-up and proper operation of the
12 idle reduction technologies. The state agency leasing, owning, or
13 operating the idle reduction facility constructed with funds
14 provided under this subsection may, but is not required to, charge
15 reasonable fees for the provision of idle reduction services
16 provided that those fees are used to directly offset the cost of
17 providing the services.

18 (c) In evaluating a request for funding of an eligible
19 infrastructure project, the commission shall encourage the use of a
20 technology that allows a vehicle to replace with electric power,
21 while the vehicle is parked, the power normally supplied by the
22 vehicle's internal combustion engine at the state's ports and
23 border crossings in affected areas.

24 SECTION 2.07. Section 386.117, Health and Safety Code, is
25 amended by amending Subsections (a) and (c) and adding Subsections
26 (e) and (f) to read as follows:

27 (a) The commission shall adopt a process for awarding grants

1 under this subchapter in the form of rebates to streamline the grant
2 application, contracting, reimbursement, and reporting processes
3 for certain projects. The process adopted under this section must:

4 (1) designate certain types of projects, such as
5 repowers, replacements, and retrofits, as eligible for rebates;

6 (2) project standardized oxides of nitrogen emissions
7 reductions for each designated project type;

8 (3) assign a standardized rebate amount for each
9 designated project type;

10 (4) process and fund ~~[allow for processing]~~ rebates on
11 an ongoing first-come, first-served basis; ~~[and]~~

12 (5) set aside funds for projects with non-road engines
13 used in construction or related activities;

14 (6) encourage projects with non-road engines used in
15 construction or related activities by ensuring that the percentage
16 of rebate grant funding for those projects is commensurate with the
17 percentage of emissions sources in the mobile inventory in the
18 state implementation plan or early action compact, as applicable,
19 that are non-road engines used in construction or related
20 activities; and

21 (7) consolidate, simplify, and reduce the
22 administrative work for applicants and the commission associated
23 with grant application, contracting, reimbursement, and reporting
24 processes for designated project types.

25 (c) The commission may award rebate grants ~~[as a pilot~~
26 ~~project]~~ for a specific region or may award the grants statewide.

27 (e) The commission shall:

1 (1) investigate the requirements for establishing an
2 Internet-based application process for rebate grants and report
3 those requirements to the legislature not later than December 31,
4 2007; or

5 (2) implement an Internet-based application process
6 for rebate grants not later than June 1, 2008.

7 (f) The commission or its designee shall notify potential
8 applicants of any changes to the rebate grant process by its e-mail
9 list service and posting those changes on its Internet website at
10 least 30 days before the changes become effective.

11 SECTION 2.08. Subsection (b), Section 386.251, Health and
12 Safety Code, is amended to read as follows:

13 (b) The fund is administered by the commission
14 ~~[controller]~~ for the benefit of the plan established under this
15 chapter. The fund is exempt from the application of Section
16 403.095, Government Code. Interest earned on the fund shall be
17 credited to the fund.

18 SECTION 2.09. Subsection (a), Section 386.252, Health and
19 Safety Code, as amended by Section 3, Chapter 766, Section 3,
20 Chapter 1095, and Section 11, Chapter 1125, Acts of the 79th
21 Legislature, Regular Session, 2005, is reenacted and amended to
22 read as follows:

23 (a) Money in the fund may be used only to implement and
24 administer programs established under the plan and shall be
25 allocated as follows:

26 (1) for the diesel emissions reduction incentive
27 program, 87.5 percent of the money in the fund, of which not more

1 than four percent may be used for the clean school bus program and
2 not more than 10 percent may be used for on-road diesel purchase or
3 lease incentives;

4 (2) for the new technology research and development
5 program, 9.5 percent of the money in the fund, of which up to
6 \$250,000 is allocated for administration, up to \$200,000 is
7 allocated for a health effects study, \$500,000 is to be deposited in
8 the state treasury to the credit of the clean air account created
9 under Section 382.0622 to supplement funding for air quality
10 planning activities in affected counties, not less than 20 percent
11 is to be allocated each year to support research related to air
12 quality for the Houston-Galveston-Brazoria and Dallas-Fort Worth
13 nonattainment areas by a nonprofit organization based in Houston of
14 which \$216,000 each year shall be contracted to the Energy Systems
15 Laboratory at the Texas Engineering Experiment Station for the
16 development and annual calculation of creditable statewide
17 emissions reductions obtained through wind and other renewable
18 energy resources for the State Implementation Plan, and the balance
19 is to be allocated each year to a [that] nonprofit organization or
20 an institution of higher education based in Houston to be used to
21 implement and administer the new technology research and
22 development program under a contract with the commission for the
23 purpose of identifying, testing, and evaluating new
24 emissions-reducing technologies with potential for
25 commercialization in this state and to facilitate their
26 certification or verification; and

27 (3) for administrative costs incurred by the

1 commission and the laboratory, three percent of the money in the
2 fund.

3 SECTION 2.10. Section 387.003, Health and Safety Code, is
4 amended by amending Subsection (a) and adding Subsections (c)
5 through (h) to read as follows:

6 (a) A [The] nonprofit organization or institution of higher
7 education described by Section 386.252(a)(2), under a contract with
8 the commission as described by that section, shall establish and
9 administer a new technology research and development program as
10 provided by this chapter. The commission may contract with more
11 than one entity and may limit the amount of each grant contract
12 accordingly.

13 (c) The board of directors of a nonprofit organization under
14 contract with the commission to establish and administer a new
15 technology research and development program as provided by this
16 chapter must include not more than three county judges selected
17 from counties in the Houston-Galveston-Brazoria nonattainment area
18 and two persons of relevant scientific expertise to be nominated by
19 the commission. The two persons of relevant scientific expertise
20 to be nominated by the commission may be employees or officers of
21 the commission, provided that they do not participate in funding
22 decisions affecting the granting of funds by the commission to a
23 nonprofit organization on whose board they serve.

24 (d) The commission may enter into a grant contract with an
25 institution of higher education described by Section 386.252(a)(2)
26 for the institution to operate a testing facility which would be
27 available for demonstration of eligible projects receiving grants

1 under this chapter.

2 (e) The commission shall provide oversight as appropriate
3 for grants provided to a nonprofit organization under this program.

4 (f) A nonprofit organization shall submit to the commission
5 for approval a budget for the disposition of funds granted under
6 this program.

7 (g) The commission shall limit the use of grants for
8 administrative costs incurred by a nonprofit organization to an
9 amount not to exceed 10 percent of the funding provided to the
10 nonprofit organization under this program.

11 (h) A nonprofit organization that receives grants from the
12 commission under this program is subject to Chapters 551 and 552,
13 Government Code.

14 SECTION 2.11. Section 387.004, Health and Safety Code, is
15 amended to read as follows:

16 Sec. 387.004. SOLICITATION OF NEW TECHNOLOGY
17 PROPOSALS. The commission from time to time shall issue or
18 contract with a nonprofit organization described by Section
19 386.252(a)(2) to issue specific requests for proposals (RFPs) or
20 program opportunity notices (PONs) for technology projects to be
21 funded under the program.

22 SECTION 2.12. Section 387.005, Health and Safety Code, is
23 amended to read as follows:

24 Sec. 387.005. ELIGIBLE PROJECTS; PRIORITIES. (a) Grants
25 awarded under this chapter shall be directed toward a balanced mix
26 of:

27 (1) retrofit and add-on technologies and other

1 advanced technologies that ~~[to]~~ reduce emissions from the existing
 2 stock of engines and vehicles targeted by the Texas emissions
 3 reduction plan;

4 (2) the establishment of a testing facility to
 5 evaluate retrofits, add-ons, advanced technologies, and fuels, or
 6 combinations of retrofits, add-ons, advanced technologies, and
 7 fuels, to determine their effectiveness in producing emissions
 8 reductions, with emphasis on the reduction of oxides of nitrogen;
 9 and

10 (3) advanced technologies for new engines and vehicles
 11 that produce very-low or zero emissions of oxides of nitrogen,
 12 including stationary and mobile fuel cells~~[+]~~

13 ~~[(3) studies to improve air quality assessment and~~
 14 ~~modeling; and~~

15 ~~[(4) advanced technologies that reduce emissions from~~
 16 ~~other significant sources].~~

17 (b) The commission, directly or through a nonprofit
 18 organization described by Section 386.252(a)(2), shall identify
 19 and evaluate and may consider making grants for technology projects
 20 that would allow qualifying fuels to be produced from energy
 21 resources in this state. In considering projects under this
 22 subsection, the commission shall give preference to projects
 23 involving otherwise unusable energy resources in this state and
 24 producing qualifying fuels at prices lower than otherwise available
 25 and low enough to make the projects to be funded under the program
 26 economically attractive to local businesses in the area for which
 27 the project is proposed.

1 (c) In soliciting proposals under Section 387.004 and
2 determining how to allocate grant money available for projects
3 under this chapter, the commission shall give special consideration
4 to advanced technologies and retrofit or add-on projects that
5 provide multiple benefits by reducing emissions of particulates and
6 other air pollutants.

7 (d) A project that involves publicly or privately owned
8 vehicles or vessels is eligible for funding under this chapter if
9 the project meets all applicable criteria.

10 (e) ~~[Studies authorized under Subsection (a)(3) shall be~~
11 ~~consistent with air quality research priorities identified by the~~
12 ~~commission and conducted in an independent and objective manner.]~~

13 ~~[(f)]~~ If a commissioner is an employee or owner of an entity
14 that applies for a grant under this chapter, the commissioner,
15 before a vote on the grant, shall disclose the fact of the
16 commissioner's employment or ownership. The disclosure must be
17 entered into the minutes of the meeting. The commissioner may not
18 vote on or otherwise participate in the awarding of the grant. If
19 the commissioner does not comply with this subsection, the entity
20 is not eligible for the grant.

21 (f) Selection of grant recipients by a nonprofit
22 organization described by Section 386.252(a)(2) under contract
23 with the commission for the purpose of establishing and
24 administering a new technology research and development program as
25 provided by this chapter is subject to the commission's review and
26 to the other requirements of this chapter. A grant contract under
27 this chapter using funds described by Section 386.252 may not be

1 made by a nonprofit organization if the commission or executive
2 director of the commission does not consent to the grant or
3 contract.

4 SECTION 2.13. Subsection (d), Section 151.0515, Tax Code,
5 is amended to read as follows:

6 (d) This section expires August 31, 2013 [~~September 30,~~
7 ~~2010~~].

8 SECTION 2.14. Subsection (c), Section 152.0215, Tax Code,
9 is amended to read as follows:

10 (c) This section expires August 31, 2013 [~~September 30,~~
11 ~~2010~~].

12 SECTION 2.15. Subsections (a), (b), and (b-1), Section
13 501.138, Transportation Code, are amended to read as follows:

14 (a) An applicant for a certificate of title, other than the
15 state or a political subdivision of the state, must pay the county
16 assessor-collector a fee of:

17 (1) \$33 if the applicant's residence is a county
18 located within a nonattainment area as defined under Section 107(d)
19 of the federal Clean Air Act (42 U.S.C. Section 7407), as amended,
20 or is an affected county, as defined by Section 386.001, Health and
21 Safety Code; or

22 (2) \$28 if the applicant's residence is any other
23 county[, ~~or~~

24 ~~[(3) on or after September 1, 2010, \$28 regardless of~~
25 ~~the county in which the applicant resides].~~

26 (b) The county assessor-collector shall send:

27 (1) \$5 of the fee to the county treasurer for deposit

1 in the officers' salary fund;

2 (2) \$8 of the fee to the department:

3 (A) together with the application within the time
4 prescribed by Section 501.023; or

5 (B) if the fee is deposited in an
6 interest-bearing account or certificate in the county depository or
7 invested in an investment authorized by Subchapter A, Chapter 2256,
8 Government Code, not later than the 35th day after the date on which
9 the fee is received; and

10 (3) the following amount to the comptroller at the
11 time and in the manner prescribed by the comptroller:

12 (A) \$20 of the fee if the applicant's residence
13 is a county located within a nonattainment area as defined under
14 Section 107(d) of the federal Clean Air Act (42 U.S.C. Section
15 7407), as amended, or is an affected county, as defined by Section
16 386.001, Health and Safety Code; or

17 (B) \$15 of the fee if the applicant's residence
18 is any other county[~~, or~~

19 [~~(C) on or after September 1, 2010, \$15~~
20 ~~regardless of the county in which the applicant resides~~].

21 (b-1) Fees collected under Subsection (b) to be sent to the
22 comptroller shall be deposited as follows:

23 (1) before September 1, 2008, to the credit of the
24 Texas emissions reduction plan fund; [~~and~~]

25 (2) on or after September 1, 2008, and before
26 September 1, 2010, to the credit of the Texas Mobility Fund, except
27 that \$5 of each fee imposed under Subsection (a)(1) and deposited on

1 or after September 1, 2008, and before September 1, 2010, shall be
2 deposited to the credit of the Texas emissions reduction plan fund;
3 and

4 (3) on or after September 1, 2010, to the credit of the
5 Texas emissions reduction plan fund.

6 SECTION 2.16. Subsection (c), Section 502.1675,
7 Transportation Code, is amended to read as follows:

8 (c) This section expires August 31, 2013 [2010].

9 SECTION 2.17. Subsection (c), Section 548.5055,
10 Transportation Code, is amended to read as follows:

11 (c) This section expires August 31, 2013 [2010].

12 SECTION 2.18. Section 12, Chapter 1125, Acts of the 79th
13 Legislature, Regular Session, 2005, amending Subsection (a),
14 Section 386.252, Health and Safety Code, is repealed.

15 ARTICLE 3. ENERGY EFFICIENCY

16 SECTION 3.01. Section 388.003, Health and Safety Code, is
17 amended by adding Subsections (b-1) and (b-2) to read as follows:

18 (b-1) If the State Energy Conservation Office determines,
19 based on written recommendations from the laboratory, that the
20 latest published edition of the International Residential Code
21 energy efficiency provisions or the latest published edition of the
22 International Energy Conservation Code will result in residential
23 or commercial energy efficiency and air quality that is equivalent
24 to or better than the commercial energy efficiency and air quality
25 achievable under the editions adopted under Subsection (a) or (b),
26 the office may by rule adopt the equivalent or more stringent
27 editions and substitute them for the initial editions described by

1 Subsection (a) or (b). The rule, if adopted, shall establish an
2 effective date for the new editions but not earlier than nine months
3 after the date of adoption. The laboratory shall make its
4 recommendations not later than six months after publication of new
5 editions at the end of each three-year code development cycle of the
6 International Residential Code and the International Energy
7 Conservation Code.

8 (b-2) The State Energy Conservation Office shall by rule
9 establish a procedure for persons who have an interest in the
10 adoption of energy efficiency codes under Subsection (b-1),
11 including commercial and residential builders, architects and
12 engineers, county and other local government authorities, and
13 environmental groups, to have an opportunity to comment on the
14 codes under consideration and to have the commentary considered by
15 the laboratory in developing its recommendations.

16 SECTION 3.02. Section 388.005, Health and Safety Code, is
17 amended to read as follows:

18 Sec. 388.005. ENERGY EFFICIENCY PROGRAMS IN INSTITUTIONS OF
19 HIGHER EDUCATION, STATE AGENCIES, AND CERTAIN POLITICAL
20 SUBDIVISIONS. (a) In this section:

21 (1) "Institution of higher education" includes an
22 institution of higher education as defined by Section 61.003,
23 Education Code, and a private institution of higher education that
24 receives funding from the state.

25 (2) "Political[~~, "political~~] subdivision" means:

26 (A) [~~(1)~~] an affected county; or

27 (B) [~~(2)~~] any political subdivision in a

1 nonattainment area or in an affected county other than:

2 (i) ~~[(A)]~~ a school district; or

3 (ii) ~~[(B)]~~ a district as defined by Section
4 36.001 or 49.001, Water Code, that had a total annual electricity
5 expense of less than \$200,000 in the previous fiscal year of the
6 district.

7 (3) "State agency" means a department, commission,
8 board, office, council, or other agency in the executive branch of
9 government that is created by the constitution or a statute of this
10 state and has authority not limited to a geographical portion of the
11 state.

12 (b) Each political subdivision, institution of higher
13 education, or state agency shall implement all energy efficiency
14 measures that meet the standards established for a contract for
15 energy conservation measures under Section 302.004(b), Local
16 Government Code, in order to reduce electricity consumption by the
17 existing facilities of the entity ~~[the political subdivision]~~.

18 (c) Each political subdivision, institution of higher
19 education, or state agency shall establish a goal to reduce the
20 electric consumption by the entity ~~[political subdivision]~~ by five
21 percent each year for six ~~[five]~~ years, beginning September 1, 2007
22 ~~[January 1, 2002]~~.

23 (d) A political subdivision, institution of higher
24 education, or state agency that does not attain the goals under
25 Subsection (c) must include in the report required by Subsection
26 (e) justification that the entity ~~[political subdivision]~~ has
27 already implemented all available measures. An entity that submits

1 a report under this subsection indicating it has already
 2 implemented all available measures is exempt from the annual
 3 reporting requirement of Subsection (e) if a subsequent report
 4 would indicate no change in status. An entity may be required to
 5 provide notice that it is exempt to the State Energy Conservation
 6 Office.

7 (e) A political subdivision, institution of higher
 8 education, or state agency annually shall report to the State
 9 Energy Conservation Office, on forms provided by that office,
 10 regarding the entity's [~~political subdivision's~~] efforts and
 11 progress under this section. The State Energy Conservation Office
 12 shall provide assistance and information to the entity [~~political~~
 13 ~~subdivisions~~] to help it [~~the political subdivisions~~] meet the
 14 goals set under this section.

15 SECTION 3.03. Subsection (b), Section 44.901, Education
 16 Code, is amended to read as follows:

17 (b) The board of trustees of a school district shall
 18 establish a goal to reduce the annual electric consumption by five
 19 percent each year for six years, beginning September 1, 2007. The
 20 board of trustees of a school district may enter into an energy
 21 savings performance contract in accordance with this section.

22 SECTION 3.04. Subsection (d), Section 2155.068, Government
 23 Code, is amended to read as follows:

24 (d) As part of the standards and specifications program, the
 25 commission shall review contracts for opportunities to recycle
 26 waste produced at state buildings, shall develop and update a list
 27 of equipment and appliances that meet the energy efficiency

standards of Section 2158.301, and shall assist state agencies in selecting products under that section as appropriate.

SECTION 3.05. Chapter 2158, Government Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. ENERGY AND EFFICIENCY STANDARDS
FOR EQUIPMENT AND APPLIANCES

Sec. 2158.301. ENERGY CONSERVATION. If available and cost effective, the commission or another state agency shall purchase equipment and appliances for state use that meet or exceed the federal Energy Star standards designated by the United States Environmental Protection Agency and the United States Department of Energy.

SECTION 3.06. (a) The State Energy Conservation Office shall adopt rules implementing a procedure for stakeholder participation as required under Subsection (b-2), Section 388.003, Health and Safety Code, as added by this article, as soon as practicable after the effective date of this Act.

(b) The State Energy Conservation Office shall adopt rules as necessary to implement Subsection (b), Section 44.901, Education Code, as amended by this article, as soon as practicable after the effective date of this Act.

SECTION 3.07. (a) The energy conservation standards for equipment and appliances under Section 2158.301, Government Code, as added by this article, apply to a purchase by a state agency on or after the effective date of this Act.

(b) The Texas Building and Procurement Commission shall develop a list of equipment and appliances under Section 2155.068,

1 Government Code, as amended by this article, as soon as practicable
2 after the effective date of this Act.

3 ARTICLE 4. EFFECTIVE DATE

4 SECTION 4.01. This Act takes effect immediately if it
5 receives a vote of two-thirds of all the members elected to each
6 house, as provided by Section 39, Article III, Texas Constitution.
7 If this Act does not receive the vote necessary for immediate
8 effect, this Act takes effect September 1, 2007.